

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

ANTONIO JOHNS
Plaintiff

CIVIL ACTION
SECTION "P"
NO. CV05-1016-A
(LEAD CASE: CV04-2063-A)

VERSUS

TIM WILKINSON, et al.,
Defendants

JUDGE DEE D. DRELL
MAGISTRATE JUDGE JAMES D. KIRK

REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE

Before the court is a civil rights complaint filed pursuant to 42 U.S.C. § 1983, in forma pauperis, by pro se plaintiff Antonio Johns ("Johns") on June 10, 2005. This matter was referred to the undersigned Magistrate Judge for report and recommendation in accordance with an order of the district judge (Doc. Item 16).

In his complaint, Johns alleges that, while he was incarcerated in the Winn Correctional Center in Winnfield, Louisiana, in April 2004, the defendant correctional officers failed to protect him from sexual assault by other inmates. For relief, Johns asks for monetary damages. Johns is currently incarcerated in the Washington Correctional Center in Angie, Louisiana.

On May 24, 2006, the district judge directed the Clerk of Court to provide Johns with summonses and copies of Form 285, which he was to fill out and return to the Clerk of Court, along with one

copy of his entire complaint for each defendant (Doc. Item 16). On May 24, 2006, Johns was ordered by the undersigned Magistrate Judge to provide one copy of his complaint for each defendant, including the attached memoranda, exhibits and attachments, as well as a completed USM-285 form for each named defendant. On September 5, 2006, Johns was ordered to comply with the court's order of May 24, 2006, by returning the service forms and other documents within ten days, and was warned that his failure to do so would result in his case being dismissed for failure to prosecute. As of the date of this Report and Recommendation, Johns has not complied with the order of this Court.

Accordingly,

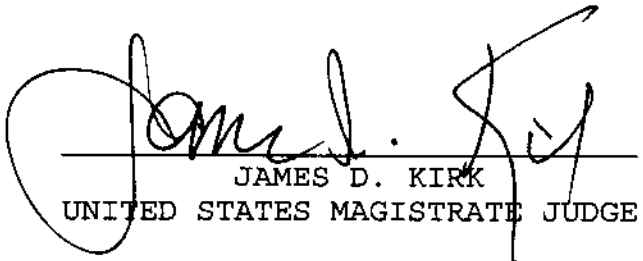
IT IS RECOMMENDED that Johns' complaint be DISMISSED WITHOUT PREJUDICE for failure to comply with orders of this Court. See Rule 41(b) of the Federal Rules of Civil Procedure; Link v. Wabash Railroad Co., 370 U.S. 626, 82 S.Ct. 1386, 8 L.Ed.2d 734 (1962); Gonzalez v. Trinity Marine Group, Inc., 117 F.3d 894, 898 (5th Cir. 1997).

Under the provisions of 28 U.S.C. § 636(b)(1)(c) and Fed.R.Civ.P. 72(b), the parties have **ten (10) business days** from service of this Report and Recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within **ten (10) days** after being served with a copy thereof. A courtesy copy of any objection or response or

request for extension of time shall be furnished to the District Judge at the time of filing. Timely objections will be considered by the district judge before he makes a final ruling.

A PARTY'S FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS, CONCLUSIONS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY, EXCEPT ON GROUNDS OF PLAIN ERROR, FROM ATTACKING ON APPEAL THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT JUDGE.

THUS DONE AND SIGNED at Alexandria, Louisiana, on this 3rd day of October, 2006.


JAMES D. KIRK
UNITED STATES MAGISTRATE JUDGE